

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

CHARLES H. LEE,)	
)	
Plaintiff,)	
)	
v.)	No. 4:10-CV-844-TCM
)	
CITY OF ST. LOUIS, et al.,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

This matter is before the Court upon the application of Charles H. Lee for leave to commence this action without payment of the required filing fee. See 28 U.S.C. § 1915(a). Upon consideration of the financial information provided with the application, the Court finds that plaintiff is financially unable to pay any portion of the filing fee. Therefore, plaintiff will be granted leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915(a).

28 U.S.C. § 1915(e)

Pursuant to 28 U.S.C. § 1915(e)(2)(B), the Court may dismiss a complaint filed in forma pauperis at any time if the action is frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief against a defendant who is immune from such relief. An action is frivolous if "it

lacks an arguable basis either in law or in fact." Neitzke v. Williams, 490 U.S. 319, 325 (1989)

In reviewing a pro se complaint under § 1915(e)(2)(B), the Court must give the complaint the benefit of a liberal construction. Haines v. Kerner, 404 U.S. 519, 520 (1972). The Court must also weigh all factual allegations in favor of the plaintiff, unless the facts alleged are clearly baseless. Denton v. Hernandez, 504 U.S. 25, 32 (1992).

The complaint

Plaintiff seeks monetary relief in this action against defendants City of St. Louis, Eugene L. Page (police officer), Steven Harmon (police officer), Fedric Heagney (police officer), William C. Slovacek (police officer), Michael J. Roe (police officer), City of Moline Acres, Moline Acres Police Department, Carle Carson (police officer), and Anthony Carson (Carle Carson's brother). Plaintiff's allegations arise out of his allegedly illegal arrest on June 17, 2005.

Upon review, the Court notes that the instant complaint contains assertions that are identical to those plaintiff set forth in two previously-filed cases that this Court dismissed as legally frivolous under 28 U.S.C. § 1915(e)(2)(B).¹ See Lee v. St. Louis

¹The Court notes that, in his complaint, plaintiff states, "I have filed this claim on (2) two previous accasions [sic]."

City Police Department, Cause No. 4:08-CV-573-TCM (E.D. Mo.); Lee v. City of St. Louis, Cause No. 4:09-CV-618-TCM (E.D. Mo.). Moreover, the named defendants in the instant case are identical to those named in the earlier two cases. As such, the instant complaint will be dismissed as frivolous and malicious under § 1915(e)(2)(B). See Aziz v. Burrows, 976 F.2d 1158, 1158-59 (8th Cir. 1992); Van Meter v. Morgan, 518 F.2d 366, 368 (8th Cir. 1975).

In accordance with the foregoing,

IT IS HEREBY ORDERED that plaintiff's motion for leave to proceed in forma pauperis [Doc. #2] is **GRANTED**.

IT IS FURTHER ORDERED that plaintiff's motion for appointment of counsel [Doc. #4] is **DENIED**, as moot.

IT IS FURTHER ORDERED that the Clerk shall not issue process or cause process to issue upon the complaint, because the complaint is legally frivolous and malicious. See 28 U.S.C. § 1915(e)(2)(B).

An appropriate order of dismissal shall accompany this memorandum and order.

Dated this 2nd day of July, 2010.

Silva n. Siqueira
UNITED STATES DISTRICT JUDGE